

CCRB INVESTIGATIVE RECOMMENDATION

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|---|-------------------------------------|-------------------------------------|---|------------------------------------|---------------------------------|
| Investigator: Edward Tsigel | Team: Squad #16 | CCRB Case #: 202106608 | <input type="checkbox"/> Force | <input type="checkbox"/> Discourt. | <input type="checkbox"/> U.S. |
| | | | <input checked="" type="checkbox"/> Abuse | <input type="checkbox"/> O.L. | <input type="checkbox"/> Injury |
| Incident Date(s) Wednesday, 10/13/2021 6:51 AM | Location of Incident: § 87(2)(b) | Precinct: 102 | 18 Mo. SOL 4/13/2023 | EO SOL 4/13/2023 | |
| Date/Time CV Reported Wed, 11/03/2021 7:57 AM | CV Reported At: CCRB | How CV Reported: On-line website | Date/Time Received at CCRB Wed, 11/03/2021 7:57 AM | | |

| Complainant/Victim | Type | Home Address |
|--------------------|------------|--------------|
| § 87(2)(b) | § 87(2)(b) | § 87(2)(b) |

| Subject Officer(s) | Shield | TaxID | Command |
|------------------------|--------|--------|---------|
| 1. PO Mark Fordlombo | 04969 | 965723 | 102 PCT |
| 2. SGT Patrick Chilton | 02893 | 938221 | 102 PCT |

| Witness Officer(s) | Shield No | Tax No | Cmd Name |
|---------------------------|-----------|--------|----------|
| 1. PO Louis Lopiccio | 20522 | 967588 | 102 PCT |
| 2. PO Joseph Squicciarini | 15820 | 958091 | 102 PCT |
| 3. PO Gina Gao | 25302 | 971064 | 102 PCT |
| 4. PO Alexandra Wojcicki | 10897 | 964841 | 102 PCT |
| 5. PO James Volpe | 01465 | 965606 | 102 PCT |
| 6. PO Damie Danseglio | 00794 | 967472 | 102 PCT |

| Officer(s) | Allegation | Investigator Recommendation |
|-----------------------|---|-----------------------------|
| A.SGT Patrick Chilton | Abuse: Sergeant Patrick Chilton threatened to remove § 87(2)(b) to the hospital. | § 87(2)(g), § 87(4-b) |
| B.SGT Patrick Chilton | Abuse: Sergeant Patrick Chilton threatened § 87(2)(b) with the use of force. | § 87(2)(g), § 87(4-b) |
| C.SGT Patrick Chilton | Abuse: Sergeant Patrick Chilton refused to provide his name to § 87(2)(b) | § 87(2)(g), § 87(4-b) |
| D.PO Mark Fordlombo | Abuse: Police Officer Mark Fordlombo refused to provide his name to § 87(2)(b) | § 87(2)(g), § 87(4-b) |
| E.SGT Patrick Chilton | Abuse: Sergeant Patrick Chilton refused to provide his shield number to § 87(2)(b) | § 87(2)(g), § 87(4-b) |
| F.PO Mark Fordlombo | Abuse: Police Officer Mark Fordlombo refused to provide his shield number to § 87(2)(b) | § 87(2)(g), § 87(4-b) |
| § 87(2)(g), § 87(4-b) | § 87(2)(b) | § 87(2)(g), § 87(4-b) |

Case Summary

On November 3, 2021, § 87(2)(b) filed this complaint on the CCRB website.

On October 13, 2021, at approximately 4:50 AM, § 87(2)(b) went to a homeless shelter located at § 87(2)(b) in Queens. § 87(2)(b) got into a verbal dispute with the shelter staff because they refused to provide him bedding. At 6:51 AM, an unknown staff worker called the police. Sergeant Patrick Chilton, Police Officer Mark Fordlombo, Police Officer Louis Lopiccolo, and five additional officers, all of the 102nd Precinct, responded to the location. Sgt. Chilton allegedly threatened to remove § 87(2)(b) to the hospital (**Allegation A – Abuse of Authority – § 87(2)(g)**). Sgt. Chilton threatened to tase § 87(2)(b) (**Allegation B – Abuse of Authority – § 87(2)(g)**). Sgt. Chilton and PO Fordlombo allegedly refused to provide § 87(2)(b) their names and shield numbers (**Allegations C to F – Abuse of Authority – § 87(2)(g)**).

§ 87(2)(g), § 87(4-b)

§ 87(2)(b) was arrested and released at the stationhouse with a summons for trespassing (BR 03).

The CCRB received two cell phone videos (IA 28-29) from § 87(2)(b) of his dispute with the shelter staff prior to officers arriving and eight Body Worn Camera (BWC) videos of this incident (IA 32-39).

Findings and Recommendations

Allegation (A) Abuse of Authority: Sergeant PATRICK CHILTON threatened to remove § 87(2)(b) to the hospital.

Allegation (B) Abuse of Authority: Sergeant PATRICK CHILTON threatened § 87(2)(b) with the use of force.

Allegation (C) Abuse of Authority: Sergeant PATRICK CHILTON refused to provide his name to § 87(2)(b)

Allegation (D) Abuse of Authority: Police Officer MARK FORDLOMBO refused to provide his name to § 87(2)(b)

Allegation (E) Abuse of Authority: Sergeant PATRICK CHILTON refused to provide his shield number to § 87(2)(b)

Allegation (F) Abuse of Authority: Police Officer MARK FORDLOMBO refused to provide his shield number to § 87(2)(b)

It is undisputed that on October 13, 2021, at approximately 4:50 AM, § 87(2)(b) (BR 01) went to a homeless shelter located at § 87(2)(b) in Queens to seek bedding. § 87(2)(b) got into a verbal dispute with the shelter staff because they refused to provide him with bedding. At 6:51 AM, an unknown shelter staff worker called the police and Sgt. Chilton (BR 02), PO Fordlombo, PO Lopiccolo, and five additional officers responded to the location. A staff worker, § 87(2)(b) identified from § 87(2)(b)'s testimony and BWC footage, told Sgt. Chilton that she wanted § 87(2)(b) to leave the shelter. § 87(2)(b) said that § 87(2)(b) violated the rules of the shelter and therefore could not be provided bedding at that time and would have to wait until the following day. Sgt. Chilton told § 87(2)(b) to leave the shelter multiple times and he refused to leave, explaining that the law required that the shelter provided him a bed. Sgt. Chilton told § 87(2)(b) that if he did not leave then he would be arrested for trespassing. § 87(2)(b) continued to refuse to leave. Sgt. Chilton drew his taser and pointed the laser at § 87(2)(b)'s stomach and told him that he would be tased if he did not put his hands behind his back. § 87(2)(b) put his hands behind his back, was handcuffed by other officers and placed under arrest with no resistance or further incident. The officers escorted § 87(2)(b) out of the shelter, into a police vehicle, and transported him to the stationhouse where he was issued a summons (BR 03) and released in lieu of an arrest.

§ 87(2)(b) (BR 01) alleged that during his initial conversation with Sgt. Chilton, he told § 87(2)(b) that if he did not leave the shelter then he would call the ambulance on him. § 87(2)(b)

§ 87(2)(b) also alleged that during the incident he requested Sgt. Chilton's and PO Fordlombo's names and shield numbers, and they refused to provide it to him. However, he also stated that PO Lopiccolo provided him a paper with the names and shield numbers of all eight officers on scene.

Sgt. Chilton (BR 02) stated that he made repeated attempts to get § 87(2)(b) to leave the shelter because § 87(2)(b) requested that he leave. After § 87(2)(b) continuously refused, he decided to place § 87(2)(b) under arrest for trespassing. He drew his taser and pointed it at § 87(2)(b)'s stomach because he did not want to get physical with him and wanted to gain his voluntary compliance when arresting him. Sgt. Chilton explained that what he did was called a laser warning, which is used to gain the voluntary compliance of individuals instead of using physical force. He further stated that he knew he could not use his taser on § 87(2)(b) in this instance because a taser can only be used when a subject is showing active aggression or active resistance, which § 87(2)(b) was not. Sgt. Chilton denied that he ever threatened to call the ambulance on § 87(2)(b). Sgt. Chilton also stated that § 87(2)(b) requested his name and shield number and that he believed he provided both to him. Additionally, he stated that PO Lopiccolo, wrote down the names and shield numbers of all eight of the officers at the scene and handed the paper to § 87(2)(b) who accepted it.

From 0:00 to 11:00 of PO Lopiccolo's BWC (BR 04), the officers arrive to the location and speak to both § 87(2)(b) and § 87(2)(b) who explain their dispute with each other. § 87(2)(b) explains that he is required to be provided a bed by the shelter based on the law, and § 87(2)(b) explains that § 87(2)(b) violated the curfew of the shelter and therefore could not be provided a bed that day. From 11:00 to 18:40, Sgt. Chilton, and the other officers speak to § 87(2)(b) outside of the shelter and she states that she wants § 87(2)(b) to leave and that if he refuses to leave voluntarily then she would be the complainant for a trespassing arrest. From 18:40 to 32:30, Sgt. Chilton and the other officer tell § 87(2)(b) that he needs to leave the shelter multiple times and he continuously refuses. At 32:30, § 87(2)(b) tells all of the officers at the scene, including Sgt. Chilton and PO Fordlombo that he wanted their names and shield numbers. The officers say that they will provide all of their names and shield numbers once he leaves the shelter and he insists that he wants the information before he leaves. At 32:30, Sgt. Chilton tells § 87(2)(b) his name, command, and rank. At 35:55, PO Lopiccolo writes down the names and shield numbers of all eight officer at the scene on a paper and gives it to § 87(2)(b). The paper with the names and shield numbers can be seen in the footage. At 37:05, Sgt. Chilton takes out his taser, points the laser at § 87(2)(b)'s stomach and tells him that he will be tased unless he puts his hands behind his back. This is the first time they notify him that he is being arrested. § 87(2)(b) did not show any active aggression towards the officers and did not threaten to injure himself or anyone else. Officers handcuff § 87(2)(b) without difficulty. Between 37:40 and 56:54, § 87(2)(b) is placed in a police vehicle, transported to the stationhouse, and placed in a cell.

All additional BWC videos (IA 32-39) capture the incident in its entirety, are consistent with PO Lopiccolo's BWC video, and provide additional angles of the incident. At no point throughout any of the footage does Sgt. Chilton threaten to call the ambulance on § 87(2)(b).

PO Fordlombo was not interviewed because the investigation was able to make a determination without a statement from him.

Patrol Guide Procedure 221-08 (BR 05) states that tasers should only be used against persons who are actively resisting, exhibiting active aggression or to prevent individuals from physically injuring themselves or other persons. A laser warning is defined as pointing and placing a laser dot of an activated conducted electrical weapon (CEW) on a subject in order to attempt to achieve voluntary compliance. When feasible, a verbal warning should be issued to the intended subject in conjunction with a laser warning. It states that a verbal and laser warning may be used in order to gain voluntary compliance and prevent the need to use force during instances in which the use of the taser would be justified.

Administrative Guide 304-11 (BR 11) requires officers to courteously and clearly state their rank, name, shield number and command, or otherwise provide them, to anyone who requests

them to do so.

§ 87(2)(g)

§ 87(2)(b) was trespassing and refused to leave the shelter after repeated requests from Sgt. Chilton. Sgt. Chilton subsequently decided to arrest § 87(2)(b) for trespassing. Sgt. Chilton simultaneously drew and pointed his taser at § 87(2)(b) while telling him that he was under arrest. BWC footage shows that § 87(2)(b) was sitting down in a chair and not showing any aggression towards the officers and was unaware that he was being placed under arrest until Sgt. Chilton pointed his taser. At this time, the situation had not risen to a level in which force or the threat of force would have been necessary to gain compliance from § 87(2)(b). Furthermore, Sgt. Chilton admitted that he knew he could not tase § 87(2)(b) in this instance because he was not showing active aggression or resistance. By unnecessarily and preemptively pointing his taser at § 87(2)(b) Sgt. Chilton escalated the situation and placed § 87(2)(b) at risk of being inadvertently tased. § 87(2)(g)

Based on available video evidence the investigation determined that § 87(2)(b) asked Sgt. Chilton, PO Fordlombo, as well as all of the other officers for their names and shield numbers. While Sgt. Chilton only provided his name and not his shield number, and none of the other officers including PO Fordlombo verbally provided their names or shield numbers, BWC showed PO Lopiccolo writing every officers' name and shield number on a paper and giving it to § 87(2)(b) and § 87(2)(b) accepting it, thus satisfying the Administrative Guide requirement. § 87(2)(g)

§ 87(2)(g), § 87(4-b)

Civilian and Officer CCRB Histories

- § 87(2)(b)
§ 87(2)(b)
§ 87(2)(b)
§ 87(2)(b)
§ 87(2)(b)
§ 87(2)(b)
- Sergeant Patrick Chilton has been a member of service for sixteen years and has been a subject in three other CCRB complaints and three other allegations, none of which were substantiated.
§ 87(2)(g)
- Police Officer Mark Fordlombo has been a member-of-service for four years and this is the first CCRB complaint to which he has been a subject.

Mediation, Civil, and Criminal Histories

- This complaint was not suitable for mediation.
- As of April 20, 2022, the New York City Office of the Comptroller has no record of a Notice of Claim being filed in regard to this incident (BR 09).
- § 87(2)(b)

Squad: 16

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| Investigator: | <u>Edward Tsigel</u> | <u>Investigator Edward Tsigel</u> | <u>5/23/2022</u> |
| | Signature | Print Title & Name | Date |

Squad Leader: Patrick Yu IM Patrick Yu 05/27/2022
Signature Print Title & Name Date

Reviewer: _____

| Signature | Print Title & Name | Date |
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